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No. 1097

# In the Supreme Court of the United States

OCTOBER TERM, 1967

EVANS REAMER & MACHINE COMPANY, PETITIONER

*v.*

THE UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS*

## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
*Solicitor General,*
*Department of Justice,*
*Washington, D.C. 20530.*

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**MEMORANDUM FOR THE UNITED STATES IN OPPOSITION**

We respectfully invite the attention of the Court to the following facts which demonstrate that the petition was filed out of time:

On November 9, 1967, the Court of Claims determined that petitioner was not entitled to recover from the United States for an alleged breach of contract and entered an order dismissing petitioner's petition (Pet. App. 1a). The petition for a writ of certiorari was filed 92 days thereafter, on February 9, 1968.[1]

[1] Petitioner did not seek reconsideration in the Court of Claims or obtain an extension of the time within which to file its petition for a writ of certiorari.



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Section 2101(c) of Title 28 provides that "any writ of certiorari intended to bring any judgment or decree in a civil action * * * before the Supreme Court for review shall be taken or applied for within ninety days after the entry of said judgment or decree." Since these limits are jurisdictional, the petition should be dismissed as untimely.

Respectfully submitted.

ERWIN N. GRISWOLD,
*Solicitor General.*

FEBRUARY 1968.

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